

APPROVED: Meeting No. 25-94

ATTEST: *[Signature]*

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
Meeting No. 22-94

July 11, 1994

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on July 11, 1994, at 7:38 p.m.

PRESENT

Mayor James F. Coyle

Councilmember Robert E. Dorsey

Councilmember Rose G. Krasnow

Councilmember James T. Marrinan

Councilmember Nina A. Weisbroth

In attendance: City Manager Bruce Romer, City Clerk Paula Jewell and City Attorney Paul Glasgow.

Re: City Manager's Report

1. Mr. Romer noted two successful City events--the Rockville Open concluded on July 8th; on July 9th, the Mayor attended an awards ceremony and presented awards to Bob Perry and David DeGerolomo, winners of the City championship.

2. The second annual Latino Festival was held in Montrose Park on July 10th. At the urging of the Mayor and Council, the City set up a display booth as part of the day-long event; the booth was staffed by staff of the City Manager's Office as well as other senior staff members.

3. The 6th annual National Night Out is scheduled for August 2nd, and will provide a great opportunity for neighbors to get together in picnics and backyard parties to celebrate neighborhoods in general and to help take a "bite out of crime." The Police Department, along with

Crime Dog McGruff, and the Mayor and Council will visit many of the sites.

4. Montgomery County has expressed an interest in concerns raised by neighbors regarding speeding and traffic volumes in the area of Scott Drive and Veirs Drive, and have concluded that these areas might be candidates for test speed hump installations. The neighbors in the area will be soliciting opinions on the proposal. There are yellow lines painted transversely across the roadway at three locations on Scott Drive, signifying where speed humps might be located.

Re: Recognition of Rockville-Montgomery  
Swim Club as the 17th Annual Maryland  
State Long Course Swimming Champions.

The Mayor and Council recognized the achievement of the Rockville-Montgomery Swim Club for winning the Maryland State Swimming Championship for the third year in a row. In addition, coaches Bill Bullough and Jim Williams were presented with certificates recognizing their many years of service with the swim team since its founding in 1968. Mr. Bullough was the first Aquatics Supervisor at the Municipal Swim Center and is also founder of the program.

Re: Presentation of Annual Report by Board of  
Appeals. Each year, the Board of Appeals  
prepares an Annual Report on the cases it  
has undertaken.

The Board presented its 1993 Report to the Mayor and Council. The Board met 14 times on 44 cases. Chairperson Karen Lechter highlighted a few points in the Report, and she noted that during past year, comments were received from many applicants regarding the assistance provided by Planning staff members Cas Chasten and Tyler Tansing. Ms. Lechter also pointed out

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that in the past year, the Board had seen a number of persons in the application process who spoke little or no English. She noted that the Board and staff had recognized that as the City's population became more culturally diverse, there would be a commitment to ensure that all residents have equal access in the Board process. Staff proposed sitting down with applicants and counseling them on the application process, as well as offering to assist elderly and disabled persons in erecting the variance signs. In addition, Ms. Lechter said that the Report outlined alternative suggestions for dealing with the non-English speaking applicants. Councilmember Weisbroth suggested that there might be a way to determine early in the process whether applicants or participants needed special assistance with language interpretation.

Past Chair, Alan Sternstein, asked the Mayor and Council for their support for the Board's use of City staff who had expertise in the areas of traffic, public works and other resources.

Councilmember Krasnow noted that the Report highlighted a recommendation that orientation sessions for newly appointed members be conducted; she said the Mayor and Council were hoping to institute this type of orientation and training for all new board and commission members.

Councilmember Weisbroth congratulated the Board on the number of cases resolved successfully and said it was encouraging as it showed how the City was willing to work with people to work out their needs.

Councilmember Dorsey commented that the Annual Report appeared to be well written and easy to understand and was a good example of team work.

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Councilmember Krasnow commented that some people have been unable to attend Saturday meetings for religious reasons, and she noted that the Report recommended an alternative to meet on Thursday evenings; she encouraged the Board to accommodate alternatives to Saturday meetings.

Re: Appointments

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, Paul Haines was appointed to serve on the Board of Appeals.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Thom Brockett was appointed to serve as an alternate at-large member on the Landlord-Tenant Commission.

Re: Citizens Forum - This time is set aside to hear from any citizen who wishes to address the Mayor and Council.

1. Andrianna Silberstein, 2008 Dundee Road shared a photo of a gate located at the rear of the parking lot at the Rockville Metro Station, and she pointed out how this access to the MARC train tracks created a dangerous situation. Mr. Romer said that staff had talked with Metro and MARC about the issue and was told that the gate was open to provide access to the disabled; he said there were some concerns that would have to be addressed for persons needing access through the gate.

2. Lou Cornet, 2405 Glenmore Terrace, President of RBBA, expressed concern on behalf of 1,500 families about the Tower Oaks project that proposed to build 166 homes,

particularly the area of homes that would abut the lower portion of Dogwood Park. He said the concerns were regarding the removal of existing trees and the construction of a manmade buffer area. He cited the potential damage to residential properties created by baseballs; the potential damage to the youth sports program because of the nuisances to homeowners, i.e., density of lighting, crowding, crowd noise and parking; and the potential for lessening of the playing time in the park at night. Mr. Cornet recommended that further design solutions be explored to minimize nuisance effects on the proposed homes so that the future of the youth sports program would not be impacted.

3. Howard Silberstein, 2008 Dundee Road President of the Kiwanis Club, said they were concerned about alcoholic beverages being sold at City events; he asked if there was a beverage other than alcohol that could be solely provided. Mr. Silberstein said there was also a liability risk issue in providing alcoholic beverages, and he suggested that the City might want to provide alternative beverages that are more conducive to the family affairs sponsored by the City. Mayor Coyle noted that the issue had come up in previous occasions and it was an appropriate matter to be referred to the Recreation and Parks Advisory Board for review.

3. Mark Wetterhahn, 2 Don Mills Court said that although he resided approximately one-half mile from the Tower Oaks site, he felt that Dogwood Park was significantly affected by the project, and he asked the Mayor and Council to give serious consideration to the needs of the users of the park as well as consideration to the new people moving into the community. Mr. Wetterhahn pointed out the issues of concern regarding density; the units being proposed were garage type town

houses and the proposed density was higher and, in his opinion, unacceptable. He said the Planning Commission felt density was a problem but did not address the issue, and he urged the Mayor and Council to consider the schematic design carefully and send the plan back to the Planning Commission to address the concerns raised.

4. William Kominers, Attorney with Linowes and Blocher representing owners of the Tower Oaks Limited Partnership. Mr. Kominers, accompanied by Karen Carpenter, Engineering and Architectural firm of Loiederman Associates, Inc., gave an introduction of the schematic design review for the residential component for the project. He said this was the first step in a two-step process--the schematic design review for the Mayor and Council and eventually a detailed application to the Planning Commission. He said the plan was far more detailed than a schematic building design plan for this level of review because of concerns raised by residents and their attempts to go into detail to try to address the concerns.

Mr. Kominers said they tried to solve and speak to the concerns of the Commission. Regarding buffering, when the concept plan was approved, it was proposed there would be buffers along the boundaries where commercial development would abut residentially used property. A great deal of discussion about the boundary along between the residential parcel and Dogwood Park took place, and the concept plan specifically did not provide for buffers in that area on the belief that where there was a residential component against commercial development, there was a need for buffers; however when a residential development was against the park, this is not necessary. He said when issue was first raised by staff in the review of the plan, discussion was begun to address

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the concern. Mr. Kominers said that he believed the proposed plan speaks to and solves that problem more than adequately for this level of review.

Ms. Carpenter went over specifics of the plan for the 22-acre site adjacent to Dogwood Park, New Mark Commons and North of Wootton Parkway and bounded by the terminus of Tower Oaks Boulevard. She said they were proposing 166 garage town houses with a density of 7.3 units per acre. The units were arranged in groups of 4 to 8 and she displayed charts showing the plan which was broken into three smaller sections. Ms. Carpenter noted that 107 units would be one-car garages and 59 would be two-car garages. There were 92 on site parking spaces being proposed close to Dogwood Park and scattered throughout the other town house areas. Ms. Carpenter also displayed artwork showing landscaped screening at the entrance to the property and how the buildings related to each other with a 25-foot wide driveway through the site with 3 story garage town houses on each side, as well as a drawing showing the elevation with the two-car garage homes on the ends and single car garages in between. Ms. Carpenter talked about the proposed recreational areas located in each section of the development, and she said the proposal called for the dedication of approximately 5 acres for a stream valley park with a hiker biker trail.

Ms. Carpenter said the main entrance to the site was located at the end of Tower Oaks Boulevard, and they were proposing a continuation of that path with a pedestrian connection to Dogwood Park. She said, if during the detailed plan review, a need was determined for a second emergency access, it would be in that location. She said no determination had been made for addressing stormwater management in the entire Tower Oaks property. However, two alternatives

were developed; one showing on-site stormwater management for the town house area and one for regional stormwater management for the town house area and the areas north of it that drain into it. She noted that in the alternative proposed for on-site stormwater management, 33 units would have to be arranged, leaving a total of 156 for the site. In the alternative for an on-site regional stormwater management pond which will handle stormwater management for areas 1, 2, and 7 in Tower Oaks and a 23 acre area in New Mark Commons, the pond would take up a larger area and they would end up with 18 units in the last section for a total of 141 town homes.

Ms. Carpenter said that they had met with members of New Mark Commons and the City's Parks and Recreation Department and she went over some of the concerns raised and how those concerns were addressed.

Recreation and Parks Director Burt Hall, noted that staff felt they have been successful with the number of changes made in the plans over the last several months. He said with the combination of the fencing, landscape screening and the additional distances added between the park boundary and the nearest houses, staff was comfortable that this was a reasonable situation.

Mr. Kominers addressed the issues in the Planning Commission report and said a lot of discussion had been held with staff on how to deal with the problems. He said they were comfortable with the plan as it had been defined and shown to the Planning Commission. A lot of adjustments were made in consultation with staff and concerned citizens and the developer expected to continue to work with everyone involved. Mr. Kominers said while the original plan called for up to 275 units, they were now trying to achieve 166; and he said with stormwater management,



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they might not reach that goal. Regarding the issue of notice to new homeowners, Mr. Kominers said they were not adverse to requiring that information about the proximity and activities of the park and hours of operation, be posted along with the property at the time of sale. Regarding on-site parking, Mr. Kominers said the overall ratio within the project was well above the requirement provided for comparable projects.

Councilmember Marrinan pointed out that the issue of notice that always occurred was not to the first time homeowner but when the property was resold; he questioned how notice could be built into the process for a second owner.

Addressing the issue of density, Mr. Kominers said that the Planning Commission did not give any standards. He said there were two ways they tried to analyze this: how they reached the current plan and its density and then other plans in the City which staff had indicated were fairly comparable. He noted and distributed information to the Mayor and Council on comparable density figures for other projects in the City. Mr. Kominers also distributed correspondence from Pulte Homes on the issue of density and the proximity of the park, as well as correspondence between New Mark Commons, staff and his firm regarding the project.

Frank Kramer, 12 Scandia Way, said when one drove into Dogwood Park and passed the snack bar, there was a sign warning motorists who parked in the upper lot about stray balls. He suggested the same type of consideration should be made for the proposed placement of the houses.

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Re: Approval of Minutes

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Minutes of Meeting No. 16-94 (May 9, 1994) were approved.

Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, the Minutes of Meeting No. 17-94 (May 10, 1994) were approved.

Re: Consent Agenda

Councilmember Weisbroth requested removal of Items A and F. Councilmember Krasnow requested removal of Item E. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the following Consent Agenda items were approved:

- (B) Award of Bid #7-95  
To: Teltronic, Inc.  
Of: Silver Spring, Md.  
In the amount of: \$24,834.00

For: Maintenance and installation service for the two-way radio communication systems.

- (C) Award of Bid #8-95  
To: Laidlaw Waste Systems, Inc.  
Of: Gaithersburg, Md.  
In the amount of: \$24,288.28

For: Refuse collection for parks and municipal facilities.

- (D) Award of Bid #11-95  
To: Hawkins Electric Company  
Of: College Park, Md.  
In the amount of: \$59,055.00

For: Traffic signal maintenance and minor modifications for Fiscal Year 1995. The contract is renewable for a

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For: Traffic signal maintenance and minor modifications for Fiscal Year 1995. The contract is renewable for a second option year.

Re: Item (A)

Award of Bid #3-95

To: Romano Concrete Construction, Inc.

Of: Silver Spring, Md.

In the amount of: \$645,598.00

For: The annual concrete maintenance contract and miscellaneous projects throughout the City. Sufficient funds are available in the various projects to cover the cost of each project.

Councilmember Weisbroth requested removal of this item to note that the contract selected was significantly below the City's estimates. She asked for assurance on the validity of the estimates for the projects. Mr. Romer explained that the situation was not uncommon. Public Works Director Bob Goodin added that the low bidder did not bid last year but had bid in the past and performed satisfactory work. He said that staff analyzed each of the elements and recommended this as a favorable bid. Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, Bid #3-95 was awarded to Romano Concrete Construction in the amount of \$645,598.

Re: Item (E) - Acceptance of Text Amendment  
Application TXT94-0142, F&H Investments Ltd.  
Partnership, Jefferson Street Joint Venture &  
1570 Associates Ltd. Partnership, Applicants.

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Amendment to the Zoning Ordinance so as to allow certain existing buildings in the RPR Zone to be reoccupied by uses allowed in the previous C-2 Zone.

Councilmember Krasnow requested that Item E be removed in order to question if these were non conforming uses since 1989 when the Rockville Pike Residential Plan was completed; and if they were, how has the City dealt with these. Chief of Planning Larry Owens said there were three separate properties involved in the application--three existing buildings on the property; two of the buildings have been constantly occupied since the change in zoning; therefore, they continue as non conforming uses. He said one building had been vacant for some time and there was the problem utilization. Mr. Owens said the application would only affect the three properties and a limited grandfather clause would be crafted to remove the nonconformity to allow the reoccupancy of uses previously allowed in the C-2 and relieving the nonconformity for mortgaging the properties. Ms. Krasnow asked that proper notification be done to residents who might be concerned that the vacant building might be put to a use they felt was not possible under the new plan. Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, Text Amendment Application TXT94-0142 was accepted.

Re: Item (F) - Acceptance of Text Amendment  
Application TXT94-0143, Montgomery Housing  
Partnership, Inc., Applicant.

Amendment to the Zoning Ordinance so as to allow multi-family dwellings as a permitted use in the I-3 Industrial Park Zone.

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Councilmember Weisbroth requested that Item F be tabled to the Mayor and Council's July 25th General Session because she felt that additional discussion was needed before the Text Amendment was accepted. Without objection, the item was deferred to the July 25, 1994 meeting.

Re: Presentation and approval of Call for Entries for  
Courthouse Square Park Art Project.

George Northway, Chairperson, Cultural Arts Commission (CAC), accompanied by Commission members, Bill Hellmuth, Architect of Hellmuth, Obata, and Kassabaum, and Francoise Yohalem, the City's Art Consultant, presented the CAC's plans for the Call for Entries for the Courthouse Square Park art project.

Francois Yohalem explained the process for how they would solicit proposals. The art project includes plans for the design of a central water feature and a sculpture. The selection process for the project will be carried out by a panel composed of representatives from the CAC, the Recreation and Parks Advisory Board, the Historic District Commission, Hellmuth, Obata & Kassabaum (HOK) Architects and outside arts professionals. Five finalists will receive an honorarium to develop a proposal. The panel will review the proposals, make a final recommendation to the CAC who will then evaluate the Panel's recommendation and make an official recommendation to the City of Rockville and the Mayor and Council.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Call for Entries plan was approved. Councilmember Krasnow encouraged everyone interested to get involved in the project.

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Re: Adoption of Ordinance to amend Chapter 21 of the Rockville City Code entitled "Streets and Public Improvements" so as to amend Section 21-42, "Permit and Inspection Fees" to provide that all fees shall be established by resolution of the Mayor and Council.

Ordinance No. 13-94

Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, the Ordinance to amend Chapter 21 of the Rockville City Code entitled "Streets and Public Improvements" was adopted. The full text of the Ordinance can be found in Ordinance Book No. 18 of the Mayor and Council.

Option or Resolution to revise and establish a schedule of fees and certain permits and approvals issued by the Department of Public Works, and for related engineering review, pertaining to road construction and related work, sediment control and stormwater management, and floodplain variances.

Resolution No. 15-94

Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, the Resolution was adopted. The full text of the Resolution can be found in Resolution Book No. 10 of the Mayor and Council.

Re: Approval of Schematic Building Design - Comprehensive Planned Development CPD-1-85, Tower Dawson Ltd. Partnership, Applicant.

Review of schematic building designs for Tower Oaks residential component, Tower Oak Blvd., North.

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Councilmember Krasnow recused herself from the discussion on this issue, because she said, as a resident of New Mark Commons, she had worked extensively with Tower Oaks on the plan.

Mr. Owens explained that when the concept plan application was originally filed and approved a number of years ago, the applicant was unable to submit any information on the location or size of the buildings. In approving the concept plan, the Mayor and Council at that time, instructed the developers to bring back the building plans for review before the detailed application process. He said that he looked at the original concept plan application form to see what it was that would have been submitted 10 years ago, and he found that this would only have been information on the general location, number and type of units. Mr. Owens said the discussions, while lengthy, were helpful and allowed a number of issues to be raised and brought to a resolution. In looking at what was approved by that Mayor and Council as part of the concept plan application, he said there were a number of references that identified those elements where the Mayor and Council were specific in the concept plan in relationship with the residential components of Tower Oaks. He said what was submitted tonight conformed with the specific requirements given at the time of the concept plan approval in terms of maximums and general guidance.

Mr. Owens said the staff recommendation and the Planning Commission memo was consistent in its recommendation that what had been presented was sufficient to satisfy the schematic building design submission and it should be passed back to the applicant to prepare a detailed application to be reviewed and acted upon by the Planning Commission. He said the Planning

Commission memo pointed to a number of issues to be resolved and indicated that these are the type of issues that they can and will be able to work on at the time a detailed application comes back to the Planning Commission.

The Mayor and Council discussed at length the concerns raised by the residents and the Planning Commission and agreed on the following issues:

- (a) Regarding the proximity of number of proposed town houses to Dogwood Park boundary, the Mayor and Council agreed that the plan is good; however concern was expressed about the potential safety risks to residents and potential damage to properties (from foul balls) at those proposed houses closer to Dogwood Park and the ones right close to the parking area.
- (b) Regarding the potential conflicts between the residential and park uses, Recreation and Parks staff and the Advisory Board are to continue discussions.
- (c) Regarding on-site parking for visitors and guests and the need for adequate on-site recreational facilities for future residents, the Mayor and Council concur with Planning Commission that these issues also warrant attention and should be adequately compensated for. (Mr. Kominers stated that they had looked at the number of on-site visitor parking spaces as well as some areas where more could be accommodated. He said they would increase this number if that was the sense of the Mayor and Council, for inclusion in the application to the Planning Commission.)
- (d) Regarding the level of density, the Mayor and Council comfortable with the level as it is within levels for other developments in the City.



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The Mayor and Council also noted the following additional comments:

- (a) Notice when properties are resold - Mayor and Council asked that the City Attorney work with the Planning Commission to determine what would be the best way to provide notice to new owners re the ball field's location, when properties change ownership. Can such language be built into a covenant or should the developer be responsible?
- (b) Lighting and Crowd Noise from Dogwood Park - Review plans to get a better idea of how lighting and crowd noise will affect the homes that run along the back of the Park. Explore alternatives for illuminating the Park so that residents are not disturbed by field lights.
- (c) Open Space - Maintain as much open space as possible.
- (d) Street Width for Townhouse Development - Put in as wide a street as possible.

Upon motion of Councilmember Marrinan, duly seconded and passed, the schematic building Design was approved, with Councilmember Krasnow abstaining.

Re: Introduction of Resolution to Enlarge the Corporate Boundaries of the City of Rockville, Annexation Petition ANX94-0119, B. F. Saul Real Estate Investment Trust, Petitioner.

To enlarge the corporate boundaries by annexation of approximately 7.6 acres of land located west of the intersection of Chapman and Bou Avenues.

Mr. Owens explained that the request was to annex approximately 7.6 acres of land located at the rear of the Montrose Crossing Shopping Center. The Petitioner also requested that the property be placed in the Rockville Pike Commercial Zone upon annexation. Although there are no

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development plans offered at this time, there was some belief that the annexation plan might result in some retail planned zone development in the future.

Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, the Resolution was introduced.

Re: Adoption of Resolution to Set Public Hearing Date, Annexation Petition ANX94-0119, B. F. Saul Real Estate Investment Trust, Petitioner.

To establish a date for the Mayor and Council's public hearing in conjunction with the proposed annexation of 7.6 acres of land located west of the intersection of Chapman and Bou Avenues.

Resolution No. 16-94

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Resolution setting a public hearing date of October 17, 1994 was adopted. The full text of the Resolution can be found in Resolution Book No. 10 of the Mayor and Council.

Re: FYI/Correspondence

1. Councilmember Krasnow commented on the positive responses the City had received on this year's Independence Day fireworks and the incredible job staff did in coordinating the music. She said she hoped the City could repeat the same success next year.

Re: New Business

1. Mayor Coyle suggested that on July 25th, the Mayor and Council discuss the issue of the 1995 Martin Luther King, Jr. celebration, and plan to give staff direction on the matter.

2. Mayor Coyle suggested that the Council submit their recommendations for nominees

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to the Human Needs And Services Advisory Task Force; the Mayor and Council will make appointments at the August 1st meeting.

4. Councilmember Dorsey noted that he had recently learned of some unclaimed funds due to the City of Rockville by the State as well as other monies possibly due to City residents. He suggested that anyone who thought they might have some unclaimed property, call the State's Unclaimed Property Section at 410-225-1700 or 1-800-782-7383.

Re: Next Meeting

The Mayor and Council will meet in General Session on Monday, July 25, 1994.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 11:39 p.m., to convene again in General Session at 7:30 p.m. on July 25, 1994, or at the call of the Mayor.